

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE BETH LABSON FREEMAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: **BY: AMY TALBURT MATCHISON**
DEPARTMENT OF JUSTICE
TAX DIVISION
BEN FRANKLIN STATION
P.O. BOX 683
WASHINGTON, DC 20044

FOR THE DEFENDANT:
BURGA
BY: JAY ROBERT WEILL
EMILY KINGSTON
SIDEMAN & BANCROFT LLP
ONE EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

APPEARANCES CONTINUED ON THE NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 APPEARANCES CONTINUED:

2 FOR THE DEFENDANT:
3 MANSKY

BY: DENISE MEJLSZENKIER
LAW OFFICES OF JOHN E. HILL
333 HEGENBERGER ROAD, SUITE 500
OAKLAND, CA 94621

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SAN JOSE, CALIFORNIA

MAY 17, 2018

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P R O C E E D I N G S

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(COURT CONVENED AT 9:02 A.M.)

09:02:23 4

THE CLERK: CALLING CASE 18-1633. UNITED STATES OF
AMERICA VERSUS BURGA, ET AL.

09:02:31 6

COUNSEL, PLEASE COME FORWARD AND STATE YOUR APPEARANCES.

09:02:39 7

MS. KINGSTON: GOOD MORNING, YOUR HONOR.

09:02:40 8

EMILY KINGSTON.

09:02:42 9

MR. WEILL: JAY WEILL FOR FRANCIS BURGA.

09:02:45 10

MS. MEJLSZENKIER: GOOD MORNING, YOUR HONOR.

09:02:48 11

DENISE MEJLSZENKIER FOR RUSSELL MANSKY.

09:02:50 12

THE COURT: GOOD MORNING.

09:02:50 13

MS. MATCHISON: AND GOOD MORNING, YOUR HONOR, AGAIN.

09:02:52 14

AMY MATCHISON FOR THE UNITED STATES.

09:02:59 15

THE COURT: ALL RIGHT. THIS IS THE GOVERNMENT'S
MOTION FOR PETITION TO ENFORCE THE IRS SUMMONS.

09:03:05 17

WE HAVE A COUPLE OF MATTERS TO ADDRESS TODAY. UNTIL I
READ THE GOVERNMENT'S REPLY, I FELT THAT THE DEFENSE ARGUMENTS
WERE SPOT ON, IN TERMS OF THE GOVERNMENT NOT ESTABLISHING THAT
THEY DID NOT ALREADY HAVE THE INFORMATION BEING REQUESTED.

09:03:23 21

I'M A LITTLE DISAPPOINTED TO SEE ALL OF THAT COME IN THE
REPLY, BECAUSE THAT MEANS THE RESPONDENTS WERE UNABLE TO
PROVIDE A WRITTEN RESPONSE. BUT IT IS THE SECOND MULLINS
DECLARATION IS WHAT I WOULD HAVE EXPECTED TO SEE UNDER THE
CIRCUMSTANCES.

09:03:41 1 SO THIS IS A REQUEST FOR A LIMITED EVIDENTIARY HEARING, IN
09:03:45 2 MY VIEW, MR. WEILL, THAT HAS BEEN OBLIVIATED BY THE SHOWING MADE
09:03:49 3 BY THE GOVERNMENT IN THE MULLINS DECLARATION.

09:03:55 4 AND IN ADDITION, TO ME, IT APPEARS THAT A LARGE PART OF
09:03:58 5 THE DISPUTE HAS TO DO WITH DOCUMENTS SHIELDED BY THE PRIVILEGE
09:04:03 6 LOG. AND I WOULD SAY THAT THOSE PRIVILEGE LOGS ARE ENTIRELY
09:04:08 7 INADEQUATE, AND THEY ARE A WASTE OF PAPER, FRANKLY, FOR THE
09:04:13 8 LACK OF INFORMATION THEY CONTAIN.

09:04:16 9 THAT DOESN'T MEAN YOU CAN'T REVISE THEM, BECAUSE PRIVILEGE
09:04:18 10 IS IMPORTANT, THAT WILL BE HONORED BY THE COURT WHERE PROPERLY
09:04:22 11 ASSERTED, BUT AT THIS POINT, I DON'T THINK THAT THAT PROTECTS
09:04:27 12 EITHER OF THE RESPONDENTS HERE AS PRESENTLY WRITTEN.

09:04:30 13 SO LET ME ADDRESS, FIRST, THE ISSUE OF WHETHER I NEED AN
09:04:34 14 EVIDENTIARY HEARING.

09:04:38 15 MR. WEILL: YOUR HONOR, WITH RESPECT TO THE -- LET ME
09:04:41 16 JUMP IN WITH RESPECT TO THE PRIVILEGE LOGS.

09:04:46 17 THE ONLY DOCUMENTS, AND I THINK WE WOULD BE MORE THAN
09:04:50 18 HAPPY, WE WILL GO BACK AND REVISE THE PRIVILEGE LOGS. BUT THE
09:04:53 19 ONLY THING WE'VE KEPT FROM THE IRS ARE COMMUNICATIONS AFTER THE
09:04:56 20 DEATH OF MARGELUS BURGA, E-MAIL TRAFFIC BETWEEN US AND THE
09:05:01 21 FOLKS AT LIECHTENSTEIN.

09:05:04 22 WE HAVE PRODUCED EVERY PIECE OF PAPER THAT THEY REQUESTED
09:05:07 23 THAT HAS BEEN PROVIDED TO US BY THESE FOUNDATIONS IN
09:05:12 24 LIECHTENSTEIN. WE HAVE NO CONTROL OVER THEM, IT'S ALL A
09:05:15 25 VOLUNTARY PRODUCTION BY THEM.

09:05:17 1 SO WE HAVE NOTHING LEFT TO -- IN THE E-MAILS IN THE
09:05:20 2 PRIVILEGE LOG, THERE'S NOTHING THERE THAT -- WE ARE NOT HOLDING
09:05:24 3 BACK ANY DOCUMENT. WHAT WE ARE HOLDING BACK ARE COMMUNICATIONS
09:05:28 4 BETWEEN THE FOLKS IN LIECHTENSTEIN AND US TALKING ABOUT TAX
09:05:31 5 RETURN PREPARATION, ET CETERA.

09:05:33 6 SO I JUST WANT TO MAKE IT CLEAR THAT OUR CLIENT, FRANCIS
09:05:38 7 BURGA, WHO IS HERE, HAS NO CONTROL OVER OR ABILITY TO REQUIRE
09:05:43 8 THE FOLKS AT LIECHTENSTEIN TO PRODUCE RECORDS.

09:05:46 9 THEY HAVE VOLUNTARILY DONE SO. SO I JUST WANT THE COURT
09:05:49 10 TO BE CLEAR THAT WE HAVEN'T KEPT ANY DOCUMENTS.

09:05:52 11 SO NOW WHAT'S HAPPENED, 14 MONTHS AGO, AS YOU KNOW, WE
09:05:56 12 SENT A LETTER AFTER THE SUMMONS WERE SERVED SAYING, PLEASE TELL
09:05:59 13 US WHAT IT IS THAT YOU THINK WE'VE NOT KEPT BACK.

09:06:02 14 THEY WENT SILENT ON US AND DID NOTHING FOR 14 MONTHS,
09:06:08 15 UNTIL TWO WEEKS AGO. WE FINALLY GET KEVAN MULLINS'S
09:06:11 16 DECLARATION THAT SAYS YOU PRODUCED PAGE 4 AND 5, BUT NOT PAGE 6
09:06:16 17 AND 7.

09:06:16 18 WE HAVE PRODUCED EVERY SINGLE PAPER THAT WE RECEIVED FROM
09:06:20 19 LIECHTENSTEIN.

09:06:20 20 THE COURT: SO I THINK ACTUALLY WHAT NEEDS TO HAPPEN,
09:06:22 21 AND I ACCEPT YOUR REPRESENTATION, BUT MS. BURGA NEEDS TO SIT
09:06:26 22 FOR AN EXAMINATION AND MAKE THOSE STATEMENTS SPECIFICALLY UNDER
09:06:30 23 OATH.

09:06:31 24 AND THEN -- AND MR. MANSKY SAYS THAT HE'S PREPARED TO COME
09:06:37 25 IN AND MAKE STATEMENTS UNDER OATH AS WELL ABOUT WHAT HE HAS.

09:06:40 1 AND WE ARE PUTTING ASIDE THE PRIVILEGE LOG FOR A MOMENT.

09:06:47 2 MS. MATCHISON, OF COURSE THAT'S ALL THE GOVERNMENT CAN

09:06:49 3 OBTAIN IS A DIRECT STATEMENT AS TO A PARTICULAR DOCUMENT THAT

09:06:56 4 NO OTHER PIECES OF IT ARE UNDER THE CONTROL OF THE RESPONDENT.

09:07:01 5 MS. MATCHISON: YES, YOUR HONOR.

09:07:01 6 THE ONLY THING THAT WE WOULD SAY IS THAT MS. BURGA HAS

09:07:06 7 BEEN DESIGNATED AS PROTECTOR FOR THESE FOUNDATIONS IN

09:07:09 8 LIECHTENSTEIN. SO WE WOULD QUERY, WHAT DOES THAT MEAN?

09:07:12 9 THE COURT: MAYBE YOU NEED TO FIND OUT WHAT THAT

09:07:15 10 MEANS.

09:07:15 11 MS. MATCHISON: I THINK THAT'S BEEN PART OF THE

09:07:17 12 PROBLEM IS THAT MS. BURGA HAS REPRESENTED SHE HAS NO ABILITY TO

09:07:20 13 CONTROL THESE THINGS AND THAT SHE CAN'T GET THESE DOCUMENTS;

09:07:22 14 HOWEVER, SHE HAS BEEN ABLE TO GET DOCUMENTS IN THE PAST.

09:07:26 15 THE COURT: IT SEEMS TO ME YOU CAN REACH OUT TO

09:07:32 16 AUTHORITIES IN LIECHTENSTEIN AND FIND OUT YOURSELF ABOUT, THESE

09:07:34 17 MAYBE LEGAL ISSUES ABOUT HER STATEMENT UNDER OATH, "I CAN'T GET

09:07:35 18 THESE" VERSUS HER LEGAL AUTHORITY, COULD BE GROUNDS FOR HER TO

09:07:38 19 BE IN CONTEMPT. BUT UNTIL YOU HAVE THAT -- AND, YOU KNOW, IF

09:07:44 20 SHE WANTS TO MAKE A STATEMENT UNDER OATH AND THEN YOU CAN GO

09:07:46 21 AHEAD AND TRY TO DISPROVE IT, SHE'S GOING TO BE FACING AN

09:07:50 22 ENTIRELY DIFFERENT SET OF CONCERNs.

09:07:52 23 BUT I THINK YOU NEED TO MAKE YOUR RECORD. AND BECAUSE

09:07:57 24 YOU'VE NOW, THROUGH THE MULLINS SECOND DECLARATION, I THINK

09:08:01 25 GIVEN A VERY EXPLICIT STATEMENT OF WHAT YOU HAVE AND WHAT'S

09:08:06 1 INCOMPLETE, THAT I THINK YOU CAN DO THAT, AND I THINK YOU COULD
09:08:09 2 CREATE A CLEAR RECORD, AND SHE COULD THEN BE, I THINK, REQUIRED
09:08:13 3 TO TESTIFY AS TO THE REASON SHE DOES NOT HAVE ACCESS TO THE
09:08:19 4 IDENTIFIED DOCUMENTS THAT THE GOVERNMENT DOES NOT HAVE IN ITS
09:08:22 5 POSSESSION.

09:08:23 6 THEN YOU CAN LOOK TO SEE WHETHER HER STATEMENT OF NO
09:08:28 7 ACCESS TO THE DOCUMENTS IS LEGALLY CORRECT. AND PRESUMABLY, IF
09:08:34 8 YOU COME UP WITH AUTHORITY THAT SHOWS SHE DOES HAVE ACCESS, YOU
09:08:39 9 WOULD SHARE THAT WITH MR. WEILL SO THAT THEY COULD RECONSIDER
09:08:43 10 WHETHER THEY WILL TAKE ADDITIONAL STEPS TO PRODUCE THE
09:08:46 11 INFORMATION.

09:08:48 12 SO I GUESS LONG WAY BACK, MR. WEILL, I THINK THAT, I DON'T
09:08:53 13 KNOW WHAT WE WOULD HAVE AN EVIDENTIARY HEARING ABOUT AT THIS
09:08:56 14 POINT.

09:08:56 15 MR. WEILL: WELL, WE WERE GOING TO HAVE AN
09:08:58 16 EVIDENTIARY HEARING ABOUT THE GOOD FAITH OF MR. MULLINS, AND
09:09:02 17 NOW YOU ARE CORRECT IN THE SENSE NOW ALL OF THE SUDDEN TWO
09:09:04 18 WEEKS AGO, WE FINALLY GET WHAT WE ASKED FOR 14 MONTHS AGO.

09:09:08 19 THE COURT: I UNDERSTAND.

09:09:09 20 MR. WEILL: BUT I'M MORE THAN HAPPY FOR FRANCIS BURGA
09:09:12 21 TO SIT ONE MORE TIME UNDER OATH AND TO ASK WHATEVER QUESTIONS
09:09:17 22 ABOUT HER ABILITY TO OBTAIN THESE RECORDS.

09:09:21 23 THE COURT: OKAY.

09:09:22 24 AND MR. MANSKY HAS ALREADY INDICATED HE WILL DO SO.

09:09:27 25 MS. MEJLSZENKIER: YES, YOUR HONOR.

09:09:27 1 THE COURT: OKAY. WELL, THAT PART IS GOOD.

09:09:29 2 NOW LET'S TALK -- YOU GOT MY ATTENTION WHEN YOU SUGGESTED

09:09:33 3 AN IN CAMERA REVIEW OF THESE DOCUMENTS, BECAUSE ONE, I

09:09:38 4 PERSONALLY WILL NOT BE DOING AN IN CAMERA REVIEW OF THOUSANDS

09:09:42 5 OF DOCUMENTS.

09:09:43 6 MR. WEILL: UNDERSTOOD.

09:09:44 7 THE COURT: AND IT WILL BE NECESSARY, BECAUSE I DOUBT

09:09:48 8 THAT THERE'S GOING TO BE AN AGREEMENT, BUT I EXPECT WITH AN

09:09:53 9 ADEQUATE PRIVILEGE LOG, THAT THE GOVERNMENT WILL BE ABLE TO

09:09:56 10 AGREE THAT CERTAIN IDENTIFIED DOCUMENTS ARE SUBJECT TO

09:10:03 11 PRIVILEGE AND WE WILL REDUCE THE LIST IN CONTENTION, THAT'S

09:10:06 12 USUALLY THE WAY THE PRIVILEGE LOG WORKS.

09:10:09 13 THEN IF AN IN CAMERA REVIEW IS NECESSARY, PERHAPS THE

09:10:13 14 GOVERNMENT CAN TELL ME IN ANOTHER CASE IN NEW YORK WE'VE ALL

09:10:17 15 FOLLOWED, I UNDERSTAND A SPECIAL MASTER WAS APPOINTED TO DO

09:10:21 16 JUST THIS SORT OF THING. I DON'T KNOW WHO PAYS FOR THAT, SO I

09:10:26 17 DON'T KNOW WHETHER --

09:10:27 18 MR. WEILL: I'M NOT SURE EITHER, YOUR HONOR.

09:10:29 19 MS. MATCHISON: NEITHER AM I, YOUR HONOR.

09:10:30 20 THE COURT: I'M PRETTY SURE THAT SPECIAL MASTER IN

09:10:33 21 NEW YORK IS NOT DOING IT FOR FREE.

09:10:35 22 MS. MATCHISON: I WOULD NOT THINK SO.

09:10:36 23 MR. WEILL: I'M SURE OF THAT.

09:10:37 24 THE COURT: SO WE ARE NOT THERE YET.

09:10:39 25 BUT I WOULD -- AND I WOULD HOPE THAT THE PARTIES WOULD

09:10:43 1 COME TO THE COURT WITH AN AGREEMENT AS TO HOW THAT WOULD OCCUR.

09:10:50 2 BUT I THINK THAT SINCE THAT'S BEING HANDLED BY A SISTER

09:10:53 3 U.S. ATTORNEY OFFICE, I'M SURE THAT MS. MATCHISON WILL HAVE NO

09:10:59 4 PROBLEM FINDING THE ANSWER TO THAT SIMPLE QUESTION OR THAT

09:11:07 5 KNOWLEDGE MAY BE WITHIN YOUR OWN OFFICE.

09:11:09 6 BUT I DON'T KNOW WHETHER IT'S A SPECIAL MASTER OR WHAT,

09:11:11 7 BUT MY REAL CONCERN IS WHO PAYS FOR IT. AND I JUST DON'T KNOW

09:11:15 8 THE ANSWER, WHETHER THE GOVERNMENT HAS TO PAY FOR THAT, I'M

09:11:17 9 PRETTY SURE THE COURT DOESN'T PAY FOR IT.

09:11:20 10 MR. WEILL: RIGHT.

09:11:21 11 THE COURT: SO IT SEEMS TO ME THAT AS A RESULT OF

09:11:27 12 THIS, THAT WE HAVE A PATH FORWARD, AT LEAST A LURCHING FIRST

09:11:34 13 STEP, PERHAPS.

09:11:35 14 SO I WILL ORDER THAT MR. MANSKY AND MS. BURGA APPEAR FOR

09:11:38 15 AN ADDITIONAL INTERVIEW. I DON'T KNOW WHAT IT'S CALLED, AND I

09:11:43 16 WILL ASK THE GOVERNMENT IF YOU HAVEN'T ALREADY GIVEN ME A

09:11:46 17 PROPOSED ORDER, IF YOU WOULD DO THAT.

09:11:48 18 I WILL ADDITIONALLY ORDER THAT THE PRIVILEGE LOGS ARE TO

09:11:53 19 BE PREPARED IN A COMPLIANT FORM SO THAT AN ADEQUATE REVIEW CAN

09:11:57 20 BE MADE.

09:11:58 21 MR. WEILL: WE SHALL DO SO.

09:11:59 22 THE COURT: I APPRECIATE THAT.

09:12:00 23 AND THERE ARE SEVERAL TYPES OF PRIVILEGE THAT ARE BEING

09:12:05 24 ASSERTED, AND THE KOVEL'S PRIVILEGE IS A LOT MORE COMPLICATED

09:12:12 25 THAN THE ATTORNEY-CLIENT, IT FEEDS OFF OF ATTORNEY-CLIENT.

09:12:15 1 AND FRANKLY, I'VE NEVER HAD TO ACTUALLY REVIEW THAT. BUT

09:12:19 2 THE DISCLOSURE IS GOING TO HAVE TO BE A LITTLE BIT MORE

09:12:21 3 COMPLETE ON THAT AS WELL.

09:12:28 4 I DON'T KNOW WHETHER YOU WANT ME TO IMPOSE A DEADLINE FOR

09:12:31 5 THE MODIFIED PRIVILEGE LOG, OR THE PARTIES WILL REACH AN

09:12:34 6 AGREEMENT ON THAT.

09:12:35 7 MR. WEILL: I THINK WE CAN PROBABLY REACH AN

09:12:37 8 AGREEMENT. WE WILL WORK ON IT IMMEDIATELY.

09:12:39 9 THE COURT: I APPRECIATE THAT.

09:12:41 10 WELL, IT'S ALWAYS BETTER IF IT'S INFORMAL BECAUSE YOU

09:12:43 11 DON'T HAVE TO KEEP GETTING COURT PERMISSION, AS THINGS TAKE

09:12:47 12 MORE TIME THAN EXPECTED.

09:12:48 13 SO OKAY. THAT'S GREAT.

09:12:55 14 THEN AS SOON AS THE GOVERNMENT SENDS ME A PROPOSED ORDER,

09:12:59 15 I WILL SIGN IT AND THEN YOU WILL HAVE AN ADDITIONAL OPPORTUNITY

09:13:02 16 TO QUESTION THE TWO RESPONDENTS.

09:13:06 17 AND, YOU KNOW, OBVIOUSLY GETTING -- HAVING SPECIFIC

09:13:09 18 QUESTIONS WITH THE ANSWER UNDER OATH WILL LEAD TO THE NEXT

09:13:13 19 STEP. IT MAY LEAD TO DISMISSING EVERYTHING, OR IT MAY LEAD TO

09:13:17 20 BIGGER PROBLEMS THAN THERE WERE BEFORE.

09:13:19 21 SO THE PARTIES, I'M SURE, WILL HAVE THE OPPORTUNITY TO

09:13:21 22 CONDUCT SOME RESEARCH AS TO WHAT CONTROL THERE ACTUALLY IS OVER

09:13:26 23 THESE DOCUMENTS.

09:13:28 24 MR. WEILL: SHOULD WE SET A FURTHER HEARING IN THE

09:13:30 25 FUTURE WITH YOU, WITH THE COURT NOW?

09:13:35 1 THE COURT: YOU KNOW, I NORMALLY WOULDN'T BECAUSE

09:13:37 2 YOU'VE AGREED TO COMPLIANCE.

09:13:39 3 MR. WEILL: I WANT TO BE CLEAR WHAT WE ARE AGREEING

09:13:42 4 TO.

09:13:43 5 IT'S OUR CONTENTION THAT SHE DOESN'T HAVE THE ABILITY TO

09:13:46 6 GET THESE DOCUMENTS.

09:13:47 7 THE COURT: I UNDERSTAND.

09:13:47 8 MR. WEILL: AND SO ARE YOU SUGGESTING YOU ARE GOING

09:13:50 9 TO ENTER AN ORDER ENFORCING THE SUMMONS?

09:13:52 10 THE COURT: I AM. I AM GOING TO.

09:13:54 11 AND I'M GOING TO, AND THE RECORD REFLECTS THAT YOU, WITH

09:13:58 12 THE MULLINS'S SUCCESSION DECLARATION, THE REQUEST FOR

09:14:00 13 EVIDENTIARY HEARING HAS BEEN TAKEN CARE OF, AND THAT SHE WILL

09:14:05 14 BE ORDERED TO APPEAR.

09:14:07 15 MR. WEILL: ALL RIGHT.

09:14:08 16 THE COURT: I'M SURE SHE WILL, SHE'S REPRESENTED BY

09:14:11 17 ABLE COUNSEL, I'M SURE MR. MANSKY WILL APPEAR.

09:14:14 18 IN THE EVENT THAT THAT DIDN'T HAPPEN, THERE ARE FURTHER

09:14:17 19 ENFORCEMENT STEPS THAT REQUIRE VIOLATION OF A COURT ORDER. SO

09:14:21 20 I WANT TO PROTECT THE GOVERNMENT FROM THAT.

09:14:23 21 BUT PRESUMABLY, IT WILL SIMPLY BE A PIECE OF PAPER THAT,

09:14:26 22 IN ESSENCE, GIVES A DATE.

09:14:28 23 SO THE GOVERNMENT WILL GIVE -- AND I THINK THAT THE

09:14:30 24 ENFORCEMENT ORDER HAS TO SPECIFY A DATE; IS THAT CORRECT?

09:14:35 25 MS. MATCHISON: WE CERTAINLY CAN, YOUR HONOR.

09:14:37 1 THE COURT: I CAN'T REMEMBER HOW I'VE DONE THEM IN
09:14:40 2 THE PAST.

09:14:45 3 MR. WEILL: WHAT WE WOULD SUGGEST IS AN ORDER
09:14:47 4 REQUIRING HER TO APPEAR AS ON OR BEFORE A CERTAIN DATE, WHICH
09:14:50 5 WE WILL COMPLY WITH.

09:14:52 6 THE COURT: YES.

09:14:54 7 MR. WEILL: BECAUSE OUR CONTENTION IS, AS YOUR HONOR
09:14:56 8 KNOWS, THAT SHE DOESN'T HAVE THE ABILITY TO PRODUCE THESE
09:14:59 9 RECORDS.

09:14:59 10 THE COURT: I APPRECIATE THAT.

09:15:00 11 AND SO I THINK THIS, RIGHT NOW I REALLY APPRECIATE THAT
09:15:04 12 THE PARTIES CAN WORK TOGETHER BY MOVING FORWARD ON IT AND, YOU
09:15:11 13 KNOW, THERE IS A CONSEQUENCE WHEN THE GOVERNMENT HAS STATEMENTS
09:15:15 14 UNDER OATH THAT THE PARTY IS UNABLE TO PRODUCE THE DOCUMENTS.
09:15:19 15 THEN THE BURDEN IS REALLY ON THEM TO ESTABLISH OTHERWISE.

09:15:23 16 MR. WEILL: ALL RIGHT.

09:15:23 17 THE COURT: SO I THINK THAT SHOULD -- HAS THE
09:15:25 18 POTENTIAL OF HELPING YOUR CLIENT.

09:15:26 19 MR. WEILL: ALL RIGHT. THANK YOU.

09:15:27 20 THE COURT: AND THAT'S WHAT YOU'RE LOOKING FOR.

09:15:29 21 MR. WEILL: I AM.

09:15:29 22 THE COURT: OKAY.

09:15:30 23 AS I SAY, AS SOON AS I GET THAT PROPOSED ORDER, I WILL
09:15:33 24 SIGN IT AND YOU WILL SHOW IT TO COUNSEL JUST TO MAKE SURE THEY
09:15:36 25 ARE IN AGREEMENT WITH THE LANGUAGE, BUT I WILL ENFORCE.

09:15:39 1 MS. MATCHISON: THANK YOU, YOUR HONOR.

09:15:40 2 I WILL HAVE THAT FOR YOU NEXT WEEK.

09:15:42 3 THE COURT: OKAY.

09:15:43 4 (THE PROCEEDINGS WERE CONCLUDED AT 9:15 A.M.)

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CERTIFICATE OF REPORTER
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8 I, THE UNDERSIGNED OFFICIAL COURT
9 REPORTER OF THE UNITED STATES DISTRICT COURT FOR
10 THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
11 FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
12 CERTIFY:

13 THAT THE FOREGOING TRANSCRIPT,
14 CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
15 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
16 SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
17 HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
18 TRANSCRIPTION TO THE BEST OF MY ABILITY.

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SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 5/22/18